



Virginia  
Regulatory  
Town Hall

Periodic Review and  
Notice of Intended Regulatory Action  
Agency Background Document

<b>Agency Name:</b>	Virginia Department for the Deaf and Hard of Hearing
<b>VAC Chapter Number:</b>	22 VAC 20-20
<b>Regulation Title:</b>	Regulations Governing Eligibility Standards and Application Procedures of the Distribution of Technological Assistive Devices
<b>Action Title:</b>	Periodic Review
<b>Date:</b>	07/13/00

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

This regulation establishes eligibility and application standards for the Virginia Department for the Deaf and Hard of Hearing Technology Assistance Program. The regulation includes criteria for determining applicant's financial participation.

Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

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Virginia Code §63.1-85.4.9 authorizes the Virginia Department for the Deaf and Hard of Hearing to promulgate regulations as may be necessary to carry out the powers and duties of the agency. Further, Virginia Code §63.1-85.4.8 authorizes the agency operate a program of technology assistance, including equipment distribution. Both of these provisions are discretionary.

### Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.*

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The Department received public comment from 15 individuals and organizations during the Periodic Review.

Nine of the commenters suggested that additional equipment, such as pagers and personal listening systems should be added to the Technology Assistance Program. The regulations are permissive as opposed to restrictive in relation to the equipment. The Department currently limits equipment availability to telecommunications and alerting devices and the variety and types of these made available are determined by various factors, including program funding. The Department does not currently offer text paging devices through the program and will not until every area of the state can be accessed by these devices.

Six commenters expressed concerns about the financial eligibility requirements. Currently, applicants who do exceed the economic guidelines for the program are required to pay the full contract cost for equipment they receive. In the past, the maximum amount paid by applicants was \$75. Commenters are requesting a return to the \$75 cap. VDDHH does not intend to reinstate the \$75 cap but will explore adding less expensive equipment as an option. Current equipment in the program includes many features beyond those found on a basic non-TTY telephone that can be purchased for under \$75.

Four of the commenters supported the current four-year renewal period. Several of these commenters noted that an exception should be made if advances in technology prior to the four-year renewal date provided a significantly-improved device that would enhance the safety and welfare program participants.

There were three comments opposing any limitation of the number of devices available to each household. The agency has clarified to these individuals that there is no limitation on how many individuals in a single household may apply for the program nor are there any plans for such a limitation.

In addition to providing the opportunity for general public comment, the agency hosted a focus group. Of twelve individuals invited, four were able to attend. Specific feedback from the focus group participants supported the need for income verification and the need for improving some of the definitions. The focus group generated a discussion about the possibility of limiting the number of devices per household but did not specifically recommend such a limitation. Other comments from the focus group may result in improved program operations but these were procedural rather than regulatory.

## Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

The regulation has two specific and measurable goals. The first of these is to provide a program of technology assistance in which the financial contribution of program participants is based on clear economic guidelines. Based on the Periodic Review, the agency has determined that, while this goal is being met technically, it is not being met fully in the spirit in which it was intended. As written, the regulation does not provide information on the source of the Economic Needs Guidelines. This could lead consumers to believe that the income levels set for the program were set arbitrarily by the agency.

The second goal, to provide an application procedure which requires minimal information needed to make a determination of eligibility, is not being met to the fullest extent possible. The current regulation does not require documentation of residency and income, and, as commenters and the focus group noted, such information should be considered essential in a program based on financial eligibility.

The regulation is essential to protect the health, safety and welfare of citizens because it establishes requirements for a program that distributes equipment which is, for persons who are deaf or hard of hearing and their families, critical. The equipment in this program provides telecommunications access in all situations, including medical-, employment- and emergency-related events. Because program participants must provide information of a personal and confidential nature, the regulation is necessary to ensure that those participants have access to the technology available through the program while also having confidence that their personal information is maintained in a confidential manner.

Feedback from the focus group and agency staff indicates that improvements could be made in the clarity of the regulations. Specific comments noted some definitions which need updating, concerns about the clarity of the phrase "fiscal constraint", and concerns about definitions which are included but do not appear to be critical to the understanding of the regulation.

## Alternatives

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

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The agency did not consider any alternatives to regulation for two reasons. First, this regulation involves the purchase of equipment for consumers using, in many instances, taxpayer dollars for the purchase. The use of taxpayer dollars for such purchases demands a carefully regulated program to ensure fiscal responsibility and consistency. Second, program participation requires applicants to reveal personal information to the agency and those applicants have a right to clearly stated rules regarding the use of that information.

The regulation has been crafted to be the least burdensome alternative.

## Recommendation

*Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.*

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The agency recommends that this regulation be amended. Amendments would allow the agency to include requirements for proof of income and proof of residency, to clarify the Economic Needs Guidelines by incorporating Federal Poverty Guidelines by reference, and to improve the clarity of the language overall.

## Substance

*Please detail any changes that would be implemented.*

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The following detailed changes are being considered:

1. The agency plans to incorporate a requirement for proof of income. While the specific method for doing this has not been determined, options under consideration include requirements for pay stubs or copies of tax returns.
2. The agency plans to incorporate a requirement for proof of residency. Again, the agency is exploring options for doing this but anticipates requiring the submission of copies of utility bills.
3. Specific dollar amounts in the Economic Income Guidelines will be eliminated and replaced with the incorporation by reference of Federal Poverty Guidelines or other, similar financial guidelines used by Health and Human Resource agencies in determining financial eligibility.

- 4. The agency is considering adding application criteria which would require renewal applicants to have provided either the agency or the contractor with written confirmation of receipt of earlier equipment before receiving additional equipment.
- 4. Definitions and language of provisions will be amended for clarity and accuracy. Specifically, each section will be reviewed to ensure that definitions and language are appropriate, accurate, and reflective of current terminology.

**Family Impact Statement**

*Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulatory action will have an overall positive impact on the family. The regulated program provides critical access to tools for communication for families where one or more family members are deaf or hard of hearing. Such communications access is essential both from the parenting perspective and from the perspective of encouraging self-sufficiency and responsibility. The regulation requirement for full financial participation of those who exceed the Economic Needs Guidelines may appear to decrease disposable family income as compared with the commenters proposal to reinstate a \$75 cap on individual contributions. The agency is confident that this perception can and will be ameliorated by the addition of lower cost equipment to the program - a step which may be achieved without regulatory action.